

**REPRESENTATIONS AND CERTIFICATIONS**  
**(August 27, 2020)**

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**PREAMBLE:** When performing work or supplying goods to Oak Ridge National Laboratory, operated and managed by UT-Battelle, LLC, you will be paid with government funds. You are required to register in [SAM](#) (System for Award Management) and to maintain your registration annually.

**NOTICE:** Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, small disadvantaged, HUBZone small, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to Sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references Section 8(d) for a definition of program eligibility, shall (1) be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies including suspension and debarment; and (3) be ineligible for participation in programs conducted under the authority of the Act.

Offeror (legal business name):

Doing Business As (must be listed on line 2 of W-9):

Physical Address:

DUNS Number:

DUNS+4 Number:

Parent DUNS Number (if applicable):

EMPLOYER IDENTIFICATION NUMBER (EIN)

(If Social Security Number is applicable, DO NOT enter on this form. DO NOT record Personally Identifiable Information on this form.)

North American Industry Classification System (NAICS) Code for this acquisition is (as indicated in the solicitation/request for proposal [RFP], if applicable).

The Offeror represents and certifies as part of its offer that: *(Check or complete all applicable items.)*

**1. TYPE OF ORGANIZATION.** It operates as the following: *(check one)*

**U.S./Domestic**

individual  
sole proprietorship  
partnership  
educational institute/nonprofit organization  
corporation  
professional corporation (licensed professionals such as doctors, lawyers, accountants, etc.)  
limited liability company  
state or local government  
federal government

**Foreign**

individual  
sole proprietorship  
partnership  
educational institute/nonprofit organization  
corporation  
limited liability company  
government

Organized in the State of

Organized in the Country of

**2. SMALL BUSINESS.** It is, is not a small business concern and that all, not all end items to be furnished will be manufactured or produced by a small business concern in the United States or its outlying areas as defined in 48 CFR subpart 2.101. "Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR 121.

**3. VETERAN-OWNED SMALL BUSINESS.** It is, is not a veteran-owned small business concern. "Veteran-owned small business concern" means a small business concern (a) not less than 51 percent of which is owned by one or more veterans, as defined at 38 U.S.C. 101(2), or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and (b) the management and daily business operations of which are controlled by one or more veterans.

**4. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS.** It is, is not a service-disabled veteran-owned small business concern. (a) "Service-disabled veteran-owned small business concern" means a small business concern (i) not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and (ii) the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran. (b) "Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

**5. HUBZone SMALL BUSINESS.**

- (a) It is, is not a HUBZone small business concern appearing, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and
- (b) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (a) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. The offerer shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture in the following space:

Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

**6. SMALL DISADVANTAGED BUSINESS CONCERN.** It is, is not a small disadvantaged business concern in accordance with item (1) of the following definition, or item (2) of the following definition. "Small disadvantaged business concern" means a small business concern that:

- (1) (i) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B; (ii) No material change in disadvantaged ownership and control has occurred since its certification; (iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and (iv) It is identified, on the date of this representation, as a certified small disadvantaged business in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, or
- (2) It believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the small disadvantaged business eligibility criteria of 13 CFR 124.1002.

Check all that apply:

- |  |                         |  |
|--|-------------------------|--|
| Alaskan Native Owned Corporation or Firm | Black American Owned    | Native Hawaiian Owned Organization or Firm       |
| American Indian Owned                    | Hispanic American Owned | Subcontinent Asian (Asian-Indian) American Owned |
| Asian-Pacific American Owned             | Native American Owned   |  |

**7. WOMEN-OWNED SMALL BUSINESS.** It is, is not a women-owned small business concern. "Women-owned small business concern" means a small business concern that (a) is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and (b) the management and daily business operations of which are controlled by one or more women.

**8. ANTI-KICKBACK.** By submission of this offer, the Offeror certifies that it has not provided, attempted to provide, offered to provide, solicited, accepted, or attempted to accept any kickback; and has not included, directly or indirectly, the amount of any kickback in the offer. "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided, directly or indirectly, to any Government prime contractor (e.g., the Company), prime contractor employee, subcontractor at any tier, or employee of a subcontractor at any tier, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Government prime contract or in connection with a subcontract at any tier relating to a Government prime contract.

**9. BUY AMERICAN.** (Applicable if offer for supplies exceeds \$10,000. Not applicable to construction subcontracts.)

- (a) Each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that for other than COTS items, the Offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act – Supplies."

- (b) Foreign end products:
 

<u>Line Item No.</u>	<u>Country of Origin</u>
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- (c) The Company will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation

**10. REPORTING EXECUTIVE COMPENSATION.** Offeror in the previous tax year had gross income from all sources under \$300,000. **YES NO**

If NO - complete the following:

To receive any contract award valued at \$25,000 or more, Offeror must provide the names and total compensation of each of the five most highly compensated executives for the Offeror's preceding completed fiscal year, if

- (i) in the Offeror's preceding fiscal year, the Offeror received—
  - (a) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
  - (b) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
- (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

(iii) *Definitions.* As used in this clause:

"Executive" means officers, managing partners, or any other employees in management positions.

"First-tier subcontract" means a subcontract awarded directly by a Contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long term arrangements for materials or supplies that would normally be applied to a Contractor's general and administrative expenses or indirect cost.

"Total compensation" means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

- (a) *Salary and bonus.*
  - (b) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - (c) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - (d) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
  - (e) *Above-market earnings on deferred compensation which is not tax qualified.*
  - (f) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites of property) for the executive exceeds \$10,000.
- (iv) (a) In its preceding fiscal year, it did, did not receive 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements.
  - (b) In its preceding fiscal year, it did, did not receive \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements.
  - (c) The public does, does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
  - (d) It is required, is not required to provide the names and total compensation of each of the five most highly compensated officers for the calendar year in which the subcontract is awarded.

**NOTE:** The offeror/subcontractor is required to provide the names and total compensation of each of the five most highly compensated officers for the calendar year in which the subcontract is awarded if:

- (1) in its preceding fiscal year, it received—
  - (a) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
  - (b) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
- (2) the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

Complete if required.

1. Name	Total Compensation
2. Name	Total Compensation
3. Name	Total Compensation

4. Name	Total Compensation
5. Name	Total Compensation

Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Company to report information on subcontract awards. The law requires all reported information be made public, therefore, the Company is advising hereby its subcontractors the required information will be made public.

**11. EXPORT CONTROL.**

(a) The Offeror represents that items being furnished under any resulting agreement are, are not Trigger List Items as defined below.

Trigger List Items - <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r13p1.pdf>  
 Trigger List items are a listing of equipment, components, or materials especially designed for nuclear applications and are export controlled. These items are on the safeguards list of the International Atomic Energy Agency identified above. The regulatory authority is the US Nuclear Regulatory Commission (10 CFR 110). If the items are Trigger List items, provide the following information:

- Manufacturer's Name
- Description
- Commodity Category

(b) The Offeror represents that items being furnished under any resulting agreement are, are not Military/Space Items as defined below.

Military/Space Items - <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=70e390c181ea17f847fa696c47e3140a&mc=true&r=PART&n=pt22.1.121>  
 Military and Space items/equipment are specially designed, fabricated and configured for military and space applications as listed on the United States Munitions List (22 CFR 120-130). The regulatory authority is the US Department of State. If the items are Military/Space items/equipment, provide the following information:

- Manufacturer's Name
- Description
- Commodity Category

(c) The Offeror represents that items being furnished under any resulting agreement are, are not Dual Use Items 500 or 600 series as defined below.

Dual Use Items 500 or 600 series - <http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>  
 Dual Use Military and Space Items that were previously on the Munitions List under the Department of State and have been moved to the Commerce Control List 15 CFR 730 – 774. If the items are Dual Use Military and Space, provide the following information:

- Manufacturer's Name
- Description
- Commodity Category

**12. EMPLOYMENT ELIGIBILITY VERIFICATION.** *(Applicable if offer exceeds \$3,000.)*

E-Verify is not applicable based on paragraph (e) of FAR 52.222-54 Employment Eligibility Verification. It is currently enrolled in E-Verify and will include FAR 52.222-54 in applicable lower-tier subcontracts. It will enroll in E-Verify within 30 calendar days of subcontract award and will include FAR 52.222-54 in applicable lower-tier subcontracts.

**13. EQUAL OPPORTUNITY.** *(Applicable if offer exceeds \$10,000.)*

- (a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation, or the clause contained in Executive Order No. 11246;
- (b) (1) It has filed all required compliance reports, or  
 (2) It is not required by regulations of the Office of Federal Contract Compliance Programs at 41 CFR 60-1 to file compliance reports because:  
     It has less than 50 employees, or  
     It does not have a Government contract or first-tier subcontract of \$50,000 or more, or  
     It does not have a Government contract of \$50,000 or more below the first tier for construction work at the site of construction, or  
 (3) It has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

**14. AFFIRMATIVE ACTION.** (Applicable if offer exceeds \$10,000.)

Applicable only if offer is **NOT** for a construction subcontract - Complete the following:

- (a) It has developed and has on file at each establishment affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2),
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor because it has not had 50 or more employees and a Government contract or subcontract of \$50,000 or more, or
- (c) It has not developed and does not have on file at each establishment a required affirmative action program.

Applicable only if offer **IS** for a construction subcontract - Complete the following:

- (a) It has developed and has on file at each establishment affirmative action programs required by the rules and regulations of the FAR Solicitation Provisions and Contract Clauses subchapter (48 CFR 52.222-27 - Affirmative Action Compliance Requirements for Construction.),
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the FAR Solicitation Provisions and Contract Clauses subchapter because it has not had a Government contract or subcontract for construction of \$10,000 or more, or
- (c) It has not developed and does not have on file at each establishment a required affirmative action program.

**15. CERTIFICATION REGARDING RESPONSIBILITY MATTERS.** (Applicable if offer exceeds \$30,000.)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that:

(i) The Offeror and/or any of its Principals:

- (A)  Are,  are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- (B)  Have,  have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and
- (C)  Are,  are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.
- (D)  Have,  have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.
  - (1) Federal taxes are considered delinquent if both of the following criteria apply:
    - (i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
    - (ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in a case where enforced collection is precluded.
  - (2) Examples are provided in FAR 52.209-5.

(ii) The Offeror  has,  has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, means officer; director; owner; partner; or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

- (b) The Offeror shall provide immediate written notice to the Company if, at any time prior to subcontract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Company may render the Offeror non-responsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Company, the Company may terminate the subcontract resulting from this solicitation for default.
- (f) Subcontractors must flow down FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) to sub-tiers if the value of any subcontract exceeds \$30,000 and is not for commercially available off the shelf items.

**16. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS.**

*(Applicable if offer exceeds \$150,000.)*

- (a) *Definitions.* As used in this provision—"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).
- (b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.
- (c) *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this subcontract.
- (d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this subcontract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.
- (e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

**17. COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS.** *(Applicable if offer exceeds \$150,000.)*

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Veterans), it has submitted the most recent VETS-100A Report required by that clause.

**18. COMPLIANCE WITH COMBATING TRAFFICKING IN PERSONS REQUIREMENTS.** *(Applicable only if any portion of the offer exceeds \$500,000 and is for supplies, other than COTS, acquired outside the U.S., or for services to be performed outside the U.S.)*

Per FAR clause 52.222-50, Combating Trafficking in Persons, by submission of its offer, the offeror certifies that it shall submit, prior to award and annually thereafter, a certification, as specified in section (c) of FAR clause 52.222-56, Certification Regarding Trafficking in Persons Compliance Plan.

**19. ANNUAL REVENUE/AVERAGE NUMBER OF EMPLOYEES.** *(Applicable only if Offeror is certifying as Small Business.)*

The Consolidated Appropriations Act of 2014, Title III, Section 318 authorizes DOE to count 1<sup>st</sup> tier subcontracts awarded by its M&O contractors to small businesses toward accomplishment of its annual small business goals.

Annual Revenue \_\_\_\_\_ (3 yr.) \_\_\_\_\_ (5 yr.)

This is the average receipts over the last three completed fiscal years<sup>1</sup>, including receipts of the parent organization, all branches, and all affiliates worldwide, and not just the size data associated with the entity location represented by the specific DUNS number you are registering. This information may be used to review your business size using SBA's official size standards for your industry. Or, under the Small Runway Extension Act of 2018, the Offeror may provide their average revenue based on its last 5 years.

<sup>1</sup>Average reported receipts will be based on your organization's fiscal year.)

Average Number of Employees \_\_\_\_\_

This is the average number of employees including all affiliates. The average number of persons employed for each pay period over the firm's latest 12 months, including persons employed by the parent organization, all branches, and all affiliates worldwide. This information may be used to review your business size using SBA's official size standards for your industry.

<b>20. ARE YOU REGISTERED IN SAM (SYSTEM FOR AWARD MANAGEMENT)?</b>	Yes	No
<b>IS YOUR SAM REGISTRATION ACTIVE?</b>	Yes	No

By: \_\_\_\_\_  
Printed/Typed Name

\_\_\_\_\_  
Signature

Title: \_\_\_\_\_

Date: \_\_\_\_\_